

REMARKS

In the Office Action¹, the Examiner took the following actions:

objected to the specification;

rejected claim 7 and 12 under 35 U.S.C. § 112, second paragraph;

rejected claims 12-17 and 20 under 35 U.S.C. § 101;

rejected claims 1-3, 10, 12-14, and 18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0016785 A1 to Sirgany ("*Sirgany*") in view of "On-line Packing and Covering Problems" to Csirik et al. ("*Csirik*"); and

objected to claims 4-9 and 15-17 as being dependent upon a rejected base claim, but allowable if rewritten in independent form.

By the present Amendment, Applicant amends the specification by attaching clean and marked-up substitute specifications; cancels claims 3-6, 14-16, and 20 without prejudice or disclaimer; amends claims 1, 2, 7, 8, 11, 12, 13, 17, and 18; and adds new claims 21-27. Claims 1, 2, 4-13, 17-19, and 21-27 are now pending, and the objections or rejections of claims 3-6, 14-17, and 20 are rendered moot by the cancellation.

I. Objection to the Specification

In order to advance prosecution, Applicant has attached substitute specifications pursuant to the Examiner's suggestion. Office Action, page 3. Accordingly, Applicant respectfully requests the Examiner to withdraw the objection to the specification.

¹ The Office Action may contain a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

II. Rejection of Claims 7 and 12 under 35 U.S.C. § 112, second paragraph

Applicant respectfully traverses the rejection of claims 7 and 12 under 35 U.S.C. § 112, second paragraph. To advance prosecution, however, Applicant amends independent claims 7 and 12 to overcome these rejections. For example, as amended claim 7 recites “varying a second threshold between a first limit and a second limit,” such that the second threshold value is varied between a first limit and a second limit that, for example, may have different values from the second threshold value. See, for example, originally-filed specification, page 10, lines 5-29 (“the threshold is incremented”). Further, claim 12 recites “[a] computer program product tangibly embodied in a computer-readable storage medium and comprising instructions which, when executed on a processor causes the processor to perform a method” Accordingly, claims 7 and 12 fully satisfy the requirements of 35 U.S.C. § 112. Therefore, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 112 rejection of claims 7 and 12.

III. Rejection of Claims 12, 13, and 17 under 35 U.S.C. § 101

Applicant respectfully traverses the rejection of claims 12, 13, and 17 under 35 U.S.C. § 101. To advance prosecution, however, Applicant amends independent claim 12 to overcome these rejections. For example, as amended claim 12 recites “[a] computer program product tangibly embodied in a computer-readable storage medium and comprising instructions which, when executed on a processor causes the processor to perform a method” Accordingly, independent claim 12 and dependent claims 13 and 17 are directed to statutory subject matter. Therefore, Applicant respectfully

requests reconsideration and withdrawal of the rejection of the rejection of claims 12, 13, and 17.

IV. Rejection of Claims 1, 2, 10, 12, 13, and 18 under 35 U.S.C. § 103(a)

Applicant respectfully asserts that the claim amendments render the 35 U.S.C. § 103(a) rejection moot. Independent claim 1 has been amended to include allowable subject matter from claim 4 which is cancelled by this response. Independent claim 12, while of different scope than claim 1, has also been amended to include allowable subject matter from claim 15 which is also cancelled by this response. Independent claim 18, while of different scope than claims 1 and 12, has also been amended to include features similar to the allowable features included in claim 4.

Accordingly, independent claims 1, 12, and 18, and dependent claims 2, 10, and 13, are in condition for allowance.

V. New Claims 21-27

New independent claim 21 includes features similar to the allowable features included in objected to claim 5, which is cancelled by this response. New independent claim 24 includes features similar to the allowable features included in claim 16, and new independent claim 26, while of different scope than claim 24, includes features similar to the allowable features included in claim 16. Accordingly, independent claims 21, 24, and 26, and dependent claims 22, 23, 25, and 27, are in condition for allowance.

CONCLUSION


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 
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